

REMARKS

Applicants respectfully request reconsideration and allowance.

The amended claims find basis in the pending claims, avoid new issues, and it is respectfully submitted, place the claims in condition for allowance.

As to the expression flavor-imparting amount or the like, attention is respectfully invited to Abbott Laboratories v. Baxter Pharmaceutical Products Inc., 67 USPQ 2d 1191 (Fed. Cir. 2003), and this statement by the court:

The primary issue on appeal is the district court's construction of the claim term "effective amount." At the outset, this court notes that the term "effective amount" has a customary usage. Under this usage, the term [in the patent-in-suit] would mean the amount of Lewis acid inhibitor that will prevent the degradation of sevoflurane by a Lewis acid." *See Minn. Mining & Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299, 1304 [64 USPQ2d 1270] (Fed. Cir. 2002) (affirming the district court's construction of the claim term "effective amount to mean a sufficient amount" of the specified component to form an encapsulant having the specified properties under the specified conditions, if any").

The amended claims presented do not surrender claim scope and are respectfully presented in an effort to successfully advance patent prosecution.

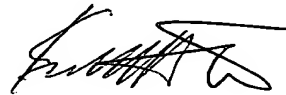
Appl. No. 09/677,780
Amdt. dated October 10, 2003
Reply to Office Action of July 11, 2003

Applicants accordingly respectfully solicit an Notice of Allowance.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By: _____



Kendrew H. Colton
Registration No. 30,368

FITCH, EVEN, TABIN & FLANNERY
1801 K Street, NW
Suite 401L
Washington, DC 20006-1201
Telephone: (202) 419-7000
Facsimile: (202) 419 -7007